

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the above amendments and following remarks, which place the application into condition for allowance.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-10 are currently pending and are rejected in the Office Action mailed February 28, 2008.

The Office Action objected to the Abstract because the format and content are allegedly not in accord with § 608.01(b). As listed above, by this Amendment the Abstract is amended to bring the form and content into compliance with the current regulations. Accordingly, Applicants respectfully request withdrawal of the objections to the abstract.

II. REJECTIONS UNDER 35 U.S.C. §102

Claims 1, 2, 4-7, and 10 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,444,560 to Jacklich (“Jacklich”). Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jacklich. Lastly, claim 3 is rejected under 35 U.S.C. § 103(b) as allegedly being obvious over Jacklich in view of U.S. Patent No. 4,710,178 to Leonard (incorrectly cited as “Henri” in the Office Action).

The rejections are traversed for at least the following reasons.

Page 3 of the Office Action asserts that Jacklich discloses, *inter alia*, a device adapted to eject pasty products comprising an orifice (33), a drive cylinder with teeth (55) moving in a bore passing through the body (hollow part of the body ‘3’), and an articulating lever (53) acting on

the teeth of the drive cylinder through an articulated pawl, wherein the lever is connected to the body by means of a joint (57).

Applicants respectfully submit that the relied upon portion of Jacklich does not disclose a drive cylinder with teeth (55) moving in a bore passing through the hollow part of the body '3'. As recited in column 2, line 24, element 55 of Jacklich is a spring, not a drive cylinder with teeth as asserted in the Office Action. Further, element 3 is not the hollow part of a body in Jacklich. In fact, no element 3 is found in the Jacklich reference. Additionally, Jacklich fails to disclose a lever connected by means of a joint (57). Element 57 is recited to be a ratchet (*Jacklich*, column 2, line 25) and therefore cannot also be a joint.

Instant independent claim 1 recites, *inter alia*:

A device (1) for ejecting a liquid or pasty product, comprising a body (2),
... a drive cylinder (3; 3'; 3'') equipped with teeth (10), moving in a bore
(23)...and a mechanism for displacing the drive cylinder attached to the
body, comprising an articulated lever (4) acting on the teeth of the drive
cylinder through an articulated pawl (16) articulated to the lever (4) ...
wherein the lever (4) is connected to the body by means of a joint (14, 15)
that can be dislocated.

Accordingly, the instant invention relates to a device for ejecting a liquid or pasty product comprising a lever which can be dislocated from the body of the device.

As presently understood by the Applicants, Jacklich does not disclose a lever connected to a body by means of a joint that can be dislocated. The referenced articulating lever (53), disclosed in Jacklich to be a handle (*Id.*, column 2, line 24), is recited to be pivoted on a lug (*Id.*) with no reference found for the lever to be capable of dislocation as instantly claimed. In Fig. 4, described as an exploded view of the instrument (*Id.*, column 1, line 49) the lever, or handle, is shown attached to the body while the remaining components are clearly separated. The only reference to a disassembled device, found in column 3, lines 11-15 of Jacklich, is silent on the

ability or desirability of dislocating the lever. Therefore Jacklich has not disclosed a handle or lever capable of being dislocated.

In Rejecting claim 2, page 3 of the Office Action recites in relevant part, “Jacklich adequately teaches a drive cylinder with one end shaped to engage in a slot (55) formed on the non return pawl (attachment of 57 to 53) when the lever is engaged the ‘wrong way around.’ See ‘Detailed Description of the Invention.’”

Applicants respectfully submit that Jacklich does not teach a drive cylinder with one end shaped to engage in a slot (55) formed on the non return pawl (attachment of 57 to 53) when the lever is engaged the ‘wrong way around.’ In this paragraph of the Office Action, element 55 in Jacklich is alleged to be a “slot”. In rejecting claim 1 above, element 55 was alleged to be “drive cylinder with teeth.” In contrast to both assertions, Jacklich recites element 55 to be a spring. *Jacklich*, column 2, line 24. Accordingly, element 55 cannot also be a slot. Additionally, the assembly alleged to be a “non return pawl,” noted as the attachment of 57 to 53, is not a non return pawl. As recited by Jacklich, the assembly is, rather, the attachment of a ratchet (57) to the handle (53). *Id.*, column 2, lines 23-25. Therefore, it cannot be a non return pawl. Further, because Jacklich is silent on dislocating the handle (lever), the reference is likewise silent on assembling it the “wrong way around.” Further still, there is no section noted to be the “Detailed Description of the Invention” in the Jacklich reference.

The Office Action asserts Jacklich teaches the profile of teeth to be two straight segments connected by a radius as claimed in instant claim 4. However, Jacklich recites, “[p]referably these teeth form a thread so that one can remove rod 61 by turning it.” *Id.*, column 2, lines 29-31. If the teeth were formed, as asserted, by two straight segments connected by a radius, they would not be threads and they would not allow removal by turning.

In rejecting claims 5 and 6, the Office Action asserts on page 3 that Jacklich teaches a liner (9) able to rotate with respect to the body, said liner comprising an elastically deformable part constituting the nonreturn pawl (47). However, Jacklich recites that element 9 is the tubular portion of the device (*Id.*, column 1, line 60), therefore not a liner, and element 47 represents internal threads (*Id.*, column 2, line 20). Accordingly, Jacklich does not teach a liner and an elastically deformable non return pawl.

In rejecting claim 7 on page 3 of the Office Action, the Examiner asserts Jacklich teaches a stud acting on one pawl (67). However, Jacklich recites element 67 to be a spring. *Id.*, column 2, line 34.

On page 4 of the Office Action, claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jacklich. The Action alleges Jacklich teaches a liner (9). As discussed above, element 9 in Jacklich is the tubular portion of the device, and therefore cannot be a liner. Because Jacklich does not teach a liner, the reference cannot make obvious a liner capable of translational movement.

Claim 3 is alleged to be obvious over Jacklich in view of Leonard. The Office Action asserts that Leonard teaches a drive cylinder with no teeth, and references paragraph 5 for support. However, there is no numbered paragraph 5 in Leonard in which to find support.

For at least the foregoing reasons, it is believed that revised independent claim 1 patentably distinguishes over the relied upon portions of Jacklich and Leonard, either alone or in combination, and is therefore allowable. Further, claims 2-10, which depend from claim 1, are allowable as well.

The Examiner has made of record, but not applied, U.S. Patent No. 4,533,352. The Applicant appreciates the Examiner's implicit finding that this document, whether considered alone or in combination with others, does not render the claims of the present invention unpatentable.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicants' undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

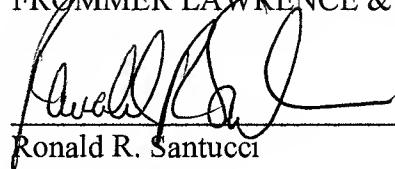
CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are patentable over the prior art, and an early favorable consideration thereof is solicited.

The Commissioner is authorized to charge any additional fees that may be required to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:


Ronald R. Santucci
Reg. No. 28,988

Telephone: (212) 588-0800
Facsimile: (212) 588-0500